THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.NO.27281 OF 2005

Dt.22.12.2005

Between:

Shankar Singh … Petitioner

And

Transmission Corporation of A.P.Ltd.,

Rep. by its Chief Managing Director,

Hyderabad and 2 others. … Respondents

ORDER:

Heard the learned counsel for the petitioner as well as the learned Standing Counsel for the respondents.

The petitioner submits that the Service Connection bearing No.L1-5081 (Domestic) was provided to Door No.14-8-429 situate at Jumarat Bazar, Hyderabad, which stands in the name of the father of the petitioner Mohanlal. It is stated that the said Mohanlal died and the petitioner succeeded the said property being his son. While so, an inspection was made on 26.5.2005 and based on the inspection the 2nd respondent estimated the value of energy said to have been pilferaged/misused by the petitioner is at Rs.10,083.74 and accordingly the petitioner was informed to pay the said amount. It is stated that criminal proceedings have also been initiated for the theft

of the energy. It is stated that the petitioner questions the action of the respondents in so far as taking civil action in demanding the entire provisionally estimated value of the energy charges without issuing any notice and without following due procedure prescribed under Section 126 of the Electricity Act, 2003 (hereinafter referred to as 'the Act'). Under Section 126(2) of the Act the authorities are entitled to make provisional assessment. But after issuing the provisional assessment notice, an opportunity has to be provided under Section 126(3) of the Act calling upon the consumer to file objections and the said objections has to be considered in accordance with Section 126(6) of the Act. But without following the due procedure, the 2nd respondent straight away issued the said notice 3.6.2005 demanding to pay the provisionally estimated pilferage charges.

Having regard to the facts and circumstances of the case, the impugned notice is directed to be treated as a show cause notice permitting the petitioner to file his objections within ten days from the date of receipt of a copy of this order and thereafter the 2nd respondent shall consider and pass appropriate final orders in accordance with Section 126(6) of the Act. Till then, the service connection of the petitioner shall not be disconnected for non-payment of the said amount.

The writ petition is disposed of accordingly. No costs.

(V.ESWARAIAH, J.)

22.12.2005

kpr